IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 21981 of 1995

Between:

1 M. Devakamma W/o V.Harsraj
r/o Balanagar (V) & (M), R.R.Dist.,
2 Shri M.Srinivasulu S/o Late Mallaiah
r/o Balanagar, (V) & (M), R.R.Dist.,

..... PETITIONERS

AND

1 The State rep. by Secretary to Govt., Revenue Dept,
Secretariat, Hyd.
2 The District Collector, Ranga Reddy Dist.,
3 The Special Officer and Competent Authority, ULC Hyderabad
4 The Mandal Revenue Officer , Balanagar R.R.Dist.,
5 Commissioner Panchayat Raj, rep. by Executive Engineer,

Panchayat Raj, Rajendranagar, R.R.Dist.,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue, a Writ, order or direction more particularly one in the nature of writ of Mandamus (a) declaring that the action of the authorities in claiming possession by virtue of surrender proceedings and allotting the said land to the Panchayat Raj as arbitrary and illegal. (b) declaring that the said action is contrary to the law and fore-bear the authorities from making any construction in the lands in Survey No.111 measuring 2015 sq mts situated at Balanagar, R.R. District and pass such

Counsel for the Petitioners: MR.A.NARASIMHA REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the action of the authorities in claiming possession by virtue of surrender proceedings and allotting the land in Survey No. 111 measuring 2015 sq. mts. situated at Balanagar, R.R. District, to the Panchayat Raj Department as arbitrary and illegal and further to declare that the said action is contrary to the law and forebear the authorities from making any construction in the said land.

The facts of the case in nut shell are as follows:- First petitioner is the wife and second petitioner is the son of one M. Mallaiah. It is stated by the second petitioner that his father Mallaiah was the owner and possessor of agricultural land in Survey No.111 to 118 measuring 18 acres 2 guntas filed a statement under Sec. 6(1) of the Urban Land (Ceiling and Regulation) Act 1976 and that the competent authority by an order dated 20-7-1978 in CC No.4443/76 declared that the entire lands are outside the purview of the Master Plan and is within the ceiling. Subsequently, pursuant to the extention of Master Plan, declarations were filed in the year 1983 and his father expired during the pendency of the proceedings and he was brought on record and that the Competent Authority by an order dt.16-8-1993 declared that they are excess in ceiling. Questioning the same, himself and other legal heirs of his father preferred appeals and during pendency of appeal, Section 10(1), & 10(3) notices were published and he was served with notices on 12-9-1995.

It is the further case of the petitioners that while the matter stood thus, one Erram Dharma lingam claiming to be the owner of the land of an extent of 2015 sq. mts in Survey No.111 of Balanagar purchased under a registered sale deed dt.26.4.1960 also filed a declaration under Section 6(1) of the Act and the Competent Authority, Urban Land Ceiling, in his proceedings dt. 30.10.1993 passed a final order declaring him as surplus landholder. Pursuant to the final order, the said land was allotted to the Panchayat Raj Department-5th respondent herein for construction of a building. When the 5th respondent started digging for laying foundation, the petitioners came to know the above facts of declaration made by Dharma lingam etc., It is the further case of the petitioners that taking possession of land from the person who is not owner is an arbitrary and illegal and the surrender is

also illegal and the title claimed by the Government is not valid in the eye of law. Thus, the action of the authorities in awarding the said land to the 5th respondent is not a bona fide exercise of statutory power. Hence, the writ petition.

No counter affidavit has been filed by the respondents.

Heard Mr A. Narsimha Reddy learned counsel for the petitioners and learned Government Pleader for Revenue.

It has been contended by the learned counsel for the petitioners that the father of the second petitioner has filed a declaration and was declared as excess land owner and notice under section 10(3) of Urban Land (Ceiling and Regulation) Act was also published and the second petitioner was served with the notice on 12-9-1995, but, in the meanwhile, one Erram Dharma lingam claiming ownership of the land in question claimed to have been purchased the same from Mohd Bandagi, Mohd Yakub and Mohd Ghouse under a registered sale deed dt. 26.4.1960, filed a suit and having lost the same filed an appeal, which was also dismissed. However, he filed a declaration before the competent authority and the authority has passed a final order declaring him as excess landowner and pursuant to the same he has surrendered the land and the said land was allotted to 5th respondent for construction of a building. When the department has started digging the land, the petitioners came to know of the proceedings and hence the present writ petition. He further submitted that since the Competent Authority has not considered all these aspects, the order of the authorities declaring the land in question as surplus land is illegal and pursuant action authorities in allotting the said land to the 5th respondent for construction of a building is arbitrary, illegal and is liable to be quashed.

On the other hand, the learned Government Pleader for Revenue in toto supported the impugned order and submitted that the statutory notices were served on the second petitioner who is the son of the original declarant and necessary publications as required under law were also made in the Gazette and hence the final order passed by the Competent Authority and pursuant action thereto does not warrant any interference by this Court. The writ petition is devoid of merits and is liable to be dismissed.

Perused the material available on record. The facts narrated in the affidavit filed in support of the writ petition would go to show that the averments made are purely of civil in nature with regard to right and title over an extent of land and hence this Court cannot go into merits of the case and decide the question of title to the

land by exercising the power vested under Art.226 of Constitution of India.

In view of the above, the writ petition is dismissed. However, if the petitioners are continued to be in possession, liberty is granted to avail the remedies open to them under law. No costs.

Dt. 9-6-2005 T.MEENA KUMARI, J

Kvrk

To

1 The Secretary, Revenue Dept, Govt. of A.P.,
Secretariat, Hyd.
2 The District Collector, Ranga Reddy Dist.,
3 The Special Officer and Competent Authority, ULC Hyderabad
4 The Mandal Revenue Officer , Balanagar R.R. Dist.,
5 The Executive Engineer, Panchayat Raj Dept.,

Panchayat Raj, Rajendranagar, R.R.Dist.,

6 Two CCs to GP for Revenue, High Court Buildings, Hyderabad(OUT)

7 Two CD copies.

*Form-NIC-OGS/WP{**MSKM**}*

HON'BLE SMT JUSTICE T.MEENA KUMARI

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09TH JUNE 2005